

AMENDED IN ASSEMBLY MAY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2416**

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**Introduced by Assembly Member Torrico**

February 23, 2006

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An act to ~~amend Section 22317~~ of *add Section 22317.2* to the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2416, as amended, Torrico. Consumer loans: appraisal fees.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation by the Commissioner of Corporations of those engaged in making consumer loans and makes a willful violation of the law a crime. Under existing law, an appraisal fee may be charged by a licensee on any loan made that is secured by real property if specified requirements are satisfied. Existing law provides that only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal.

~~This bill would instead specify that only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than six months has elapsed since the prior appraisal.~~

*This bill would authorize a licensee to collect a fee for use of an automated valuation model prepared by a 3rd party not to exceed the actual cost paid to a 3rd party for a written automated valuation model result in lieu of an appraisal, as specified. The bill would require a licensee in a loan transaction secured by real property to provide notice, as specified, to a borrower that, upon request, the*

*borrower is entitled to receive a copy of the automated valuation model result, provided he or she has paid for the automated valuation model result.*

*The bill thereby would impose a state-mandated local program by expanding the scope of an existing crime.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 22317.2 is added to the Financial Code,  
2     to read:

3     22317.2. (a) A licensee may collect a fee for use of an  
4     automated valuation model prepared by a third party not to  
5     exceed the actual cost paid to a third party for a written  
6     automated valuation model result in lieu of the appraisal  
7     provided for in Section 22317. The borrower shall not be  
8     charged for both an automated valuation model result and an  
9     appraisal as defined in Section 22317 for the same property in a  
10    single transaction. Only one fee for providing an automated  
11    valuation model result for the same real property may be  
12    collected unless the borrower has obtained a new or additional  
13    loan and more than one year has elapsed since the prior delivery  
14    of an automated valuation model result. The fee is not included  
15    in charges as defined in this division or in determining the  
16    maximum charges that may be made under this article.

17    (b) A licensee in a loan transaction secured by real property  
18    shall provide notice as described in this section to a borrower of  
19    the borrower's right to receive a copy of the automated valuation  
20    model result, provided he or she has paid a fee for the automated  
21    valuation model result. A borrower's written request for a copy  
22    of an automated valuation model result shall be received by the  
23    licensee no later than 90 days after (1) the licensee has provided

1 notice of the action taken on the application, including a notice  
2 of incompleteness, or (2) the application has been withdrawn.

3 (c) The licensee shall mail or deliver a copy of an automated  
4 valuation model result within 15 days after receiving a written  
5 request from the borrower, or within 15 days after receiving the  
6 automated valuation model, whichever occurs later.

7 (d) Where the loan is proposed to be secured by residential  
8 real property the notice of the borrower's right to a copy of the  
9 automated valuation model result shall be given in at least  
10 10-point boldface type, as a separate document in a form that the  
11 borrower may retain, and no later than 15 days after the licensee  
12 receives the written application. The notice shall specify that the  
13 borrower's request for the automated valuation model result  
14 must be in writing and must be received by the licensee no later  
15 than 90 days after the licensee provides notice of the action taken  
16 on the application or a notice of incompleteness, or in the case of  
17 a withdrawn application, 90 days after the withdrawal. An  
18 address to which the request should be sent shall be specified in  
19 the notice. Release of the automated valuation model result to the  
20 borrower may be conditioned upon payment of the fee.

21 (e) This section does not apply to automated valuation model  
22 results obtained by licensees on property owned by the licensee,  
23 nor to automated valuation model results obtained by the  
24 licensee in anticipation of modifying any existing loan agreement  
25 if the licensee does not charge for the use of the automated  
26 valuation model.

27 (f) Nothing in this section authorizes the use of an automated  
28 valuation model in lieu of an appraisal that is required under  
29 state or federal law.

30 SEC. 2. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the  
35 penalty for a crime or infraction, within the meaning of Section  
36 17556 of the Government Code, or changes the definition of a  
37 crime within the meaning of Section 6 of Article XIII B of the  
38 California Constitution.

39 ~~SECTION 1. Section 22317 of the Financial Code is~~  
40 ~~amended to read:~~

1     ~~22317. On any loan made that is secured by real property, an~~  
2     ~~appraisal fee not to exceed the actual cost of the appraisal may be~~  
3     ~~charged by the licensee if a written appraisal is provided to the~~  
4     ~~licensee by a qualified appraiser. Only one fee for appraising the~~  
5     ~~same real property may be collected unless the borrower has~~  
6     ~~obtained a new or additional loan and more than six months has~~  
7     ~~elapsed since the prior appraisal. The fee is not included in~~  
8     ~~charges as defined in this division or in determining the~~  
9     ~~maximum charges that may be made under this article.~~

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